

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-11017

Morcous Morgan,et al

v.

Alberto Gonzalez, et al

CLERK'S CERTIFICATE

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 3/11/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on March 18, 2005.

Tony Anastas, Clerk of Court

By:

Carolyn Ramos
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 3/18/05

R. Burchard

Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL, HABEAS

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11017-RCL

Morgan v. Ashcroft

Assigned to: Judge Reginald C. Lindsay

Cause: 28:2241 Petition for Writ of Habeas
Corpus (federal)

Date Filed: 05/20/2004

Jury Demand: None

Nature of Suit: 530 Habeas
Corpus (General)

Jurisdiction: U.S. Government
Defendant

Petitioner

Marcous Morgan

represented by **Anthony Drago, Jr.**

35 India Street

Boston, MA 02110

617-357-0400

Fax: 617-357-8353

Email:

anthony@adragopc.com

LEAD ATTORNEY

ATTORNEY TO BE

NOTICED

Saher J. Macarius

The Law Offices of Saher

Joseph Macarius

21 Walsh St.

Framingham, MA 01701

508-879-4443

Fax: 508-879-5444

Email: smacarius@juno.com

LEAD ATTORNEY

ATTORNEY TO BE

NOTICED

Petitioner**Erein Ibrahim**

represented by **Anthony Drago, Jr.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Saher J. Macarius
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

V.

Respondent**Attorney General John Ashcroft**

represented by **Mark J. Grady**
United States Attorney's Office
1 Courthouse Way
Suite 9200
Boston, MA 02210
617-748-3136
Fax: 617-748-3971
Email:
mark.grady@usdoj.gov
ATTORNEY TO BE
NOTICED

Respondent**Michael Garcia**
Assistant Secretary, U.S.
Immigration and Customs
Enforcement

represented by **Mark J. Grady**
(See above for address)
ATTORNEY TO BE
NOTICED

Respondent**Bruce Chadbourn**

represented by **Mark J. Grady**

*Boston Field Director, U.S.
Immigration and Customs
Enforcement*

(See above for address)
*ATTORNEY TO BE
NOTICED*

Respondent

Sheriff Andrea J. Cabral

represented by **Mark J. Grady**

(See above for address)
*ATTORNEY TO BE
NOTICED*

| Date Filed | # | Docket Text |
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| 05/20/2004 | •1 | Verified PETITION for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (With Temporary Restraining Order) \$ 5, receipt number 56107, filed by Morcous Morgan.(Stanhope, Don) (Entered: 05/21/2004) |
| 05/21/2004 | • | If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Stanhope, Don) (Entered: 05/21/2004) |
| 06/04/2004 | •2 | Amended PETITION for Writ of Habeas Corpus and Complaint for Declaratory Relief and Emergency Stay of Removal , filed by Morcous Morgan. (Attachments: # 1)(Stanhope, Don) (Entered: 06/07/2004) |
| 06/16/2004 | •3 | MOTION to Dismiss for Lack of Jurisdiction , <i>Failure to Exhuast and Failure to State a Claim</i> by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia.(Grady, Mark) (Entered: 06/16/2004) |
| 06/16/2004 | •4 | MEMORANDUM in Support re <u>3</u> MOTION to Dismiss for Lack of Jurisdiction , <i>Failure to Exhuast and Failure to State a Claim</i> filed by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia. (Attachments: # 1 Exhibit IJ Decision# 2 Exhibit |

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| | | Appeal Docket# 3 Exhibit BIA Decision# 4 Exhibit BIA Decision on Motion to Reopen)(Grady, Mark) (Entered: 06/16/2004) |
| 06/16/2004 | •5 | NOTICE by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia of <i>Scheduling of Removal of Petitioner Morgan on June 23, 2004</i> (Grady, Mark) (Entered: 06/16/2004) |
| 06/18/2004 | •6 | Emergency MOTION to Stay <i>Removal</i> by Morcous Morgan.(Macarius, Saher) (Entered: 06/18/2004) |
| 06/18/2004 | • | Judge Reginald C. Lindsay : Electronic ORDER entered granting 6 Petitioner's Motion to Stay His Removal from the United States. The petitioner is before the court seeking habeas relief from an order of the Bureau of Immigration Appeals denying his petition for asylum. The respondents have filed a motion to dismiss the present petition on grounds the ground that this court lacks subject matter jurisdiction of the petition. The petitioner, however, claims that his removal from the United States is imminent. Accordingly this order is necessary to maintain the status quo pending a determination of the court's jurisdiction. See United Mine Workers v. Lewis, 330 U.S. 258 (1947). (Lindsay, Reginald) (Entered: 06/18/2004) |
| 09/01/2004 | •7 | Plaintiffs' Emergency MOTION for Release by Morcous Morgan.(Stanhope, Don) (Entered: 09/02/2004) |
| 09/03/2004 | •8 | NOTICE by John Ashcroft of <i>Supplemental Authority in Support of the Motion to Dismiss</i> (Grady, Mark) (Entered: 09/03/2004) |
| 09/15/2004 | •9 | RESPONSE to Motion re 7 MOTION filed by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia. (Grady, Mark) (Entered: 09/15/2004) |
| 10/06/2004 | •10 | NOTICE by John Ashcroft, Andrea J. Cabral, Bruce |

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| | | Chadbourne, Michael Garcia <i>of Supplemental Authority In Opposition to the Petitioner' Motion for Release from Custody</i> (Grady, Mark) (Entered: 10/06/2004) |
| 11/08/2004 | • | Judge Reginald C. Lindsay : Electronic ORDER entered denying <u>7</u> Motion for Release (Hourihan, Lisa) (Entered: 11/08/2004) |
| 01/31/2005 | •11 | NOTICE of Hearing on Motion <u>3</u> MOTION to Dismiss for Lack of Jurisdiction , <i>Failure to Exhaust and Failure to State a Claim</i> : Motion Hearing set for 3/7/2005 03:00 PM in Courtroom 11 before Judge Reginald C. Lindsay. (Hourihan, Lisa) (Entered: 01/31/2005) |
| 03/07/2005 | • | Electronic Clerk's Notes for proceedings held before Judge Reginald C. Lindsay : Motion Hearing held on 3/7/2005 re <u>3</u> MOTION to Dismiss for Lack of Jurisdiction, Failure to Exhaust and Failure to State a Claim filed by Bruce Chadbourne, John Ashcroft, Michael Garcia, Andrea J. Cabral. The court denies the petitioners' motion for stay and grants the respondents' motion to dismiss for the reasons stated at the hearing. (Court Reporter D. Joyce.) (RCL, law2) (Entered: 03/07/2005) |
| 03/07/2005 | • | Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>3</u> MOTION to Dismiss for Lack of Jurisdiction, Failure to Exhaust and Failure to State a Claim by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia. For reasons stated in Arloo v. Ashcroft, 238 F. Supp. 2d 381 (D. Mass. 2003), as more fully explained on the record at the hearing, the court grants this motion on the ground that the petitioners waived or are procedurally defaulted from habeas review by failing to file a timely direct appeal of the BIA's denial of their petition for asylum. The petitioners offered no |

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| | | explanation for their failure to pursue the direct appeal. Moreover, the present petition raises no cognizable constitutional claim requiring habeas review. The clerk shall enter judgment for the respondents. (RCL, law2) (Entered: 03/07/2005) |
| 03/07/2005 | •12 | NOTICE of Appearance of Co-Counsel filed by Anthony Drago, Jr on behalf of Morcous Morgan (Stanhope, Don) (Entered: 03/08/2005) |
| 03/07/2005 | •13 | MOTION to Hold Decision in Abeyance Pending Outcome of First Circuit Decision filed by Morcous Morgan.(Stanhope, Don) (Entered: 03/08/2005) |
| 03/07/2005 | • | Judge Reginald C. Lindsay : Electronic ORDER entered denying <u>13</u> Motion to Hold Decision in Abeyance Pending Outcome of First Circuit Decision. (Stanhope, Don) (Entered: 03/08/2005) |
| 03/09/2005 | •14 | Judge Reginald C. Lindsay : ORDER entered. JUDGMENT in favor of respondents against petitioners(Hourihan, Lisa) (Entered: 03/09/2005) |
| 03/11/2005 | •15 | Appellant's Emergency MOTION for Stay of Removal. filed by Morcous Morgan, Erein Ibrahim. (Stanhope, Don) (Entered: 03/15/2005) |
| 03/11/2005 | •16 | NOTICE OF APPEAL filed by Morcous Morgan, Erein Ibrahim. \$ 255, receipt number 62690 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 3/31/2005. (Stanhope, Don) (Entered: 03/15/2005) |
| 03/11/2005 | •17 | CERTIFICATE OF SERVICE filed by Morcous Morgan, Erein Ibrahim re <u>15</u> MOTION to Stay, <u>16</u> Notice of Appeal,. (Stanhope, Don) (Entered: 03/15/2005) |

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| 03/17/2005 | •18 | Opposition re <u>15</u> MOTION to Stay filed by Michael Garcia, Bruce Chadbourne, Andrea J. Cabral, John Ashcroft. (Attachments: # <u>1</u> Exhibit 1 - IJ Decision# <u>2</u> Exhibit 2 - BIA Decision# <u>3</u> Exhibit 3 - PACER Docket# <u>4</u> Exhibit 4 - BIA Decision)(Grady, Mark) (Entered: 03/17/2005) |
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